

REMARKS

The present invention relates to a built-in lamp having a holder for fastening the lamp in an installation surface. The built-in lamp also includes a bulb and a reflector with a reflector opening disposed in the direction of illumination and defining a generally parallel direct light discharge region from the bulb. A generally coplanar diffuse light discharge region is also formed around the direct light discharge region.

The bulb 6 and direct light reflector 4 are arranged in the housing such that the housing has an inner planar surface 7 which overlies the reflector and which itself forms an additional reflector. This additional reflector 7 reflects at least a portion of the light from the bulb to the diffuse light discharge region 2.

Additionally, the housing 10 is terminated in a largely dust-proof manner by a translucent scattering plate 13, 15 in the region of the diffuse light discharge region 2 and by a plate 13, 14. The direct light discharge region 1 has a circular shape while the diffuse light discharge region is bounded on its inner side by the circular outer periphery of the direct light discharge region 1 and on its outer periphery by a polygonal or circular line.

Claims 1-12 and 14-17 are resubmitted at this time without amendment (except for a minor amendment to claim 1 to clarify antecedent basis and which has no effect on the scope of claim 1) for reconsideration and allowance by the Patent Examiner.

First, despite the overall simplicity of the present invention, the Patent Examiner has found it necessary to rely upon no less than four prior art references. Having found these four prior art references, the Patent Examiner then selects individual elements out of each of the four references and, with the knowledge provided by the instant disclosure, combines those elements together in a fashion which the Patent Examiner feels reads on the claims in this application.

Applicant respectfully submits, however, that the Patent Examiner's reliance upon the four separate prior art references, and the selection of the various individual elements from each of the four references, results not from obviousness, but rather from hindsight. A piecemeal reconstruction of Applicant's claimed invention based upon hindsight is not obvious within the purview of 35 U.S.C. §103. For that reason, Applicant respectfully submits that the Patent Examiner withdraw the Examiner's rejection and allow the claims in this case.

However, even if the four references are combined together in the fashion suggested by the Patent Examiner, and even if that reconstruction of Applicant's invention satisfies 35 U.S.C. §103, the Patent Examiner's combination of references still fails to teach Applicant's invention as it is defined in the claims in this application. More specifically, on page 2 of the Patent Examiner's July 2, 2009, Office Action, the Patent Examiner argues that the Muggenburg patent would teach a built-in lamp with a direct light discharge region being coplanar to a diffuse light discharge region. As understood, it is the Patent Examiner's position that the entire volume surrounded by the reflector 3 and the volume below the scattering plate 21a, 21b would be regarded as the light discharge region.

This, however, is wrong since Muggenburg clearly defines item 5 as a light discharge opening. ("Lichtaustrittsöffnung 5"; col. 6, l. 14 to 15). Also, it is clear from FIG. 2 in the instant application that the light discharge regions 1, 2 are defined as being the openings of the reflectors 4 and 5, respectively. Consequently, it is clear that Muggenburg does not teach or suggest a structure in which the direct light discharge region and diffuse light discharge region are coplanar as required by claim 1.

The secondary references relied upon by the Patent Examiner in the Examiner's rejection of the claims in this application fail to cure this deficiency of the Muggenburg patent.

Specifically, the Jongewaard patent admittedly discloses a lamp having a light emitting region 42. However, there is absolutely no suggestion or teaching in the Jongewaard patent of providing a reflective surface on the housing portion that overlies the main reflector and which reflects light to the diffuse light discharge region as is required by claim 1.

The Martin patent also fails to disclose or suggest coplanar diffuse and direct light discharge regions. Rather, as is clear from claim 1, the discharge region for the direct light, and indeed the light source itself, are positioned below the diffuse discharge region. As such, the diffuse light discharge region and direct light discharge region are clearly not coplanar as is required by claim 1 in the instant application.

The Patent Examiner, however, apparently recognizes that the Examiner's combination of Mütgenburg, Jongewaard et al. and Martin does not teach coplanar diffuse and direct light discharge regions; see July 2, 2009, Office Action, page 5, second paragraph, where the Patent Examiner said:

“Muggenburg, Jongewaard et al., and Martin do not disclose expressly the scattering region and the transparent regions of the plates being coplanar to one another.”

The Patent Examiner then further relies upon the Nagler patent to meet this deficiency of the combination of Mütgenburg, Jongewaard and Martin.

Applicant, however, respectfully submits that the Patent Examiner has misread the Nagler patent.

More specifically, the crystals 8 in the Nagler patent form the diffuse light region. The crystals 8 are clearly not coplanar with the direct light discharge region 5, but rather are below it. This diffuse light region 8 of Nagler, furthermore, does not directly surround the direct light discharge region, but is spaced outwardly from it by the reflector region 6.

Furthermore, Applicant respectfully submits that one having ordinary skill in the art would not even consider the Nagler patent since, in the Nagler patent, the reflector 2 and plate 5 are widely spaced from each other. Consequently, in Nagler, unlike Applicant's invention, both direct light and scattered light can pass the transparent regions as well as the scattering regions defined by the crystals 8.

Claim 1 in the instant application also clearly defines that the direct light discharge region has a circular shape and that the diffuse light discharge region 2 is bounded on its inside by a circular line. That, however, is simply not true at all for the Nagler patent. Instead, as is clear from FIG. 2 of Nagler, the direct light discharge region is clearly not circular in shape nor is the diffuse light discharge region bounded by a circular line as required by claim 1. Indeed, the fact that the Patent Examiner needed to rely upon the Nagler patent, which is directed to a light ornament for displaying a complex shape shown in FIG. 2 of Nagler, further underscores the belief that the Patent Examiner's combination of references in the Examiner's rejection of the claims results not from obviousness, but rather from hindsight. Hindsight, however, cannot form the basis for rejection under 35 U.S.C. §103.

For all of the foregoing reasons, Applicant respectfully submits that claim 1 patentably defines Applicant's invention over the prior art references of record and is, therefore, allowable. All remaining claims depend from claim 1 and are, therefore, also allowable.

Such action is respectfully solicited.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 07-1180.

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Respectfully submitted,

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